

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

RICKY L. SIROIS, )  
                        )  
                        )  
Plaintiff            )  
                        )  
                        )  
v.                    ) Civil No. 06-117-B-W  
                        )  
ALFRED CICHON,     )  
                        )  
                        )  
Defendant            )

***Recommended Decision on 42 U.S.C. § 1983 Action***

Ricky Sirois, an inmate at the Maine State Prison, filed a complaint against Alfred Cichon accompanied by a motion to proceed in forma pauperis. On October 10, 2006, I entered an order granting the motion to proceed in forma pauperis but indicated:

Plaintiff is hereby on notice that the Court may dismiss this action if it:

- (1) is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
- (2) seeks monetary relief from a defendant who is immune from such relief.

28 U.S.C. § 1915A(b). If the Court does dismiss the action under this section, Plaintiff will still be required to pay the filing fee in full.

With regard to the susceptibility of Sirois's complaint to dismissal, I note that Sirois has indicated in this federal complaint that he has already brought an action against this defendant in the state courts, apparently based on the same facts. Before incurring the cost of this suit Sirois should consider the possibility that his claims are barred by the doctrine of claim or issue preclusion.

In that order I gave Sirois until November 10, 2006, to notify the court whether or not he wished to proceed with the action. Sirois has not responded in anyway to that order. I now recommend that the pending complaint be dismissed without prejudice because of Sirois's failure to comply with the earlier order.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

/s/ Margaret J. Kravchuk  
U.S. Magistrate Judge

November 14, 2006